

### **REMARKS**

The present Amendment is in response to the Office Action mailed August 10, 2009. Claims 5 and 18 are cancelled and claims 1, 8, 11 and 16 are amended. Claims 1-4, 6-17, and 19-20 remain pending in view of the above amendments. Applicants note that the following remarks are not intended to be an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed below are presented solely by way of example to illustrate some of the differences between the claimed invention and the cited references. Applicants also note that the remarks presented herein have been made merely to clarify the claimed embodiments from elements purported by the Examiner to be taught by the cited reference. Such remarks, or a lack of remarks, are not intended to constitute, and should not be construed as, an acquiescence, on the part of the Applicants: as to the purported teachings or prior art status of the cited references; as to the characterization of the cited references advanced by the Examiner; or as to any other assertions, allegations or characterizations made by the Examiner at any time in this case. Applicants reserve the right to challenge the purported teaching and prior art status of the cited references at any appropriate time. Reconsideration of the application is respectfully requested in view of the above amendments to the claims and the following remarks. For the Examiner's convenience and reference, Applicant's remarks are presented in the order in which the corresponding issues were raised in the Office Action.

### **PRIOR ART REJECTIONS**

#### **Rejection Under 35 U.S.C. §102**

The Office Action rejected claims 1-21 and 24.30 under 35 U.S.C. § 102(e)<sup>1</sup> as being anticipated by U.S. Patent No. 7,334,379 (*Siegel*).

Because *Siegel* does not teach or suggest each and every element of the rejected claims, Applicants respectfully traverse this rejection in view of the following remarks.

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<sup>1</sup> Because *Siegel* is only citable under 35 U.S.C. § 102(e) Applicants do not admit that *Siegel* is in fact prior art to the claimed invention but reserve the right to swear behind *Siegel* if necessary to remove it as a reference.

Claim 1 is directed to a method for automatically filling tablets into tablet containers. Claim 1 has been amended to clarify that, "upon receiving the patient order, a plausibility check of the prescription data regarding a possible overdosage and mutual compatibility between tablet types is carried out and, in case an overdosage or an incompatibility is detected, the patient order is rejected."

When a doctor prescribes doses of tablets for a patient, it may be possible for the wrong dose of to get input to the system as prescription data (e.g., by input error, wrong medicament, wrong dose). The method of claim 1 carries out a plausibility check of the prescription data regarding a possible overdosage and mutual compatibility. The plausibility check results in the patient order being rejected in case an overdosage or an incompatibility is detected. This increases the security of the system when automatically filling tablets into the tablet containers as recited in claim 1.

This aspect of claim 1, among others, is not disclosed in *Siegel*. The disclosure of *Siegel* is focused on a product packaging machine and on how *Siegel* fills a pharmaceutical package. In the context of dosage, *Siegel* discusses labeling errors. More specifically, *Siegel* discloses a card that may "be specifically associated with a particular patient dose." See col. 4, ll. 1. The card associated with a particular patient dose is intended to eliminate possible errors in labeling. See col. 6, lls. 2-38.

Associating a card with a particular patient dose to eliminate errors in labeling fails to disclose a plausibility check of the prescription data regarding a possible overdosage. Associating a card with a particular dose also fails to disclose a plausibility check regarding the mutual compatibility between tablet types. Similarly, these teachings of *Siegel* fail to disclose rejecting the patient order when an overdosage or incompatibility is detected. Rather, *Siegel* attempts to provide cards that correctly label the pharmaceutical package.

*Siegel* is directed an automated pharmaceutical product packaging machine that fills a pharmaceutical package. The product packaging machine of *Siegel* uses funnels to transmit a solid pharmaceutical product from a canister into a cavity of a product package template. See col. 2, lls. 50-60. However, funneling solid pharmaceutical products to a pharmaceutical package does not disclose a plausibility check as recited in claim 1.

In other words, the teachings of *Siegel* fail to disclose, as recited in claim 1, "a plausibility check of the prescription data regarding a possible overdosage and the mutual compatibility between tablet types is carried out and, in case an overdosage or an incompatibility is detected, the patient order is rejected."

For at least these reasons, Applicants respectfully submit that claim 1 is patentable over the cited art. Claim 11 includes at least some generally similar elements and is patentable for at least the same reasons. The dependent claims rejected under § 102 are patentable for at least the same reasons.

#### **Rejection Under 35 U.S.C. § 103**

The Office Action rejected claims 22 and 23 under 35 U.S.C. § 103(a) as being unpatentable over *Siegel* in view of U.S. Patent No. 6,449,921 (*Kim*). Because claim 11 is patentable as discussed herein and because *Kim* has not been shown to remedy the deficiencies of *Siegel*, claims 22 and 23 are patentable for at least the same reasons.

### **CONCLUSION**

In view of the foregoing, Applicants believe the claims as amended are in allowable form. In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, or which may be overcome by an Examiner's Amendment, the Examiner is requested to contact the undersigned attorney. In view of the recent USPTO initiative regarding compact prosecution, Applicant respectfully invites the Examiner to contact the undersigned at his earliest convenience in the instance that additional impediment exists to the prompt allowance of this case.

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Respectfully submitted,

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